

IRIS

INSTITUTIONAL RESEARCH INFORMATION SYSTEM
ARCHIVIO ISTITUZIONALE DEI PRODOTTI DELLA RICERCA

intestazione repository dell'ateneo

'Milano Lavoro': An Agreement for Employment in Milan

This is the peer reviewed version of the following article:

Original

'Milano Lavoro': An Agreement for Employment in Milan / Tiraboschi, Michele. - In: INTERNATIONAL JOURNAL OF COMPARATIVE LABOUR LAW AND INDUSTRIAL RELATIONS. - ISSN 0952-617X. - STAMPA. - 16 (2)(2000), pp. 183-194.

Availability:

This version is available at: 11380/21944.10 since: 2017-09-01T10:01:28Z

Publisher:

Published

DOI:

Terms of use:

Altro tipo di accesso

Testo definito dall'ateneo relativo alle clausole di concessione d'uso

Publisher copyright

(Article begins on next page)

‘Milano Lavoro’: An Agreement for Employment in Milan

1. A local agreement for employment of supranational relevance

On 2 February 2000 the Milan Municipal administration and the social parties (except for CGIL) signed an agreement aimed at promoting the creation of new employment in Milan and to combat the phenomena of irregular and clandestine work.

Despite being relative to a limited geographical area like that of the Milan municipality, the agreement has created national interest as a pilot project for employment which could be duplicable in other metropolitan areas. In the context of the European strategy for employment it could, moreover, represent, after an initial experimental phase, one of those best practices designed to make the work-force more adaptable to the changing needs of the labour market. Not by chance the agreement primarily identifies as its beneficiaries, although not exclusively, individuals with special problems of insertion into the labour market: non-EC citizens who are unemployed, workers over 40 years of age who have been excluded from the labour market due to reduction or change of activity and put on the list of mobility and placement and, finally, those in situations of mental/physical or social disability.

As highlighted in the premise of the pact, the agreement promoted by the Milan municipal administration can, therefore, be read as an implementation of more recent Community policies promoting employment with respect to the fundamental principle of subsidiarity. The agreement, in fact, stems from the Resolution of the Council of the European Union of 22 February 1999 (containing the guidelines for employment for 1999) and principally from guideline XII in which Member States are invited to ‘promote measures to exploit fully the possibilities offered by job creation at local level, in the social economy, in the area of environmental technologies and in new activities linked to needs not yet satisfied by the market, and examine, with the aim of reducing, any obstacles in the way of such measures. In this respect, the special role of local authorities and the social partners should be taken into account’.

2. The contents of the agreement: a summary

Using the power of derogation provided by statutory law in favour of collective agreements, the signatories of the agreement have identified a number of cases of legitimate recourse to fixed-term contracts that are additional to and diverse from those specifically indicated by the national legislation (Art. 8) in the hope of contributing to the emergence of undeclared work and the creation of new employment. Still in this perspective quasi-subordinate contracts, work/training contracts, *stages* and the so-called 'grants' (Arts. 9 and 10) are used to advantage.

Those intending to use such forms of flexible management of the work-force, like private corporations and public institutions, are obliged to present a specific 'project' to a tripartite Concertation Commission (Arts. 3 and 4) containing indications regarding the economic plan of the intervention in the Milan labour market and the relative impact in terms of employment. Each project must also take into account the opportunities of employing, primarily, subjects at risk of exclusion from the labour market (Art. 2). The approval of the 'project' by the Concertation Commission is required to comply with the flexibility agreed upon by the social parties. With the aim of favouring a match between supply and demand of labour, the public actors (Municipality, local Immigration Offices, the Province and Regione Lombardia) will set up a direct mechanism which favours a rapid and efficient co-ordination of employment services – facilitating, for example, the practices of regularising non-EC workers (Art. 5).

The agreement also provides for the training intervention necessary to improve the possibilities of a stable insertion of individuals into the labour market through specific projects (Art. 6). The last objective of the agreement is the emergence of undeclared work through the use of flexible contractual arrangements and, in a second phase, the stabilisation of employment relationships in contracts of an indefinite duration. To this end the agreement expressly provides that, in case of the presentation of a new project on the part of an economic subject, the Concertation Commission shall take into consideration primarily, among the diverse elements, the criteria of training investment and the quota of temporary contracts which have then been turned into contracts of an indefinite duration (Art. 7).

3. The agreement in the general framework of Italian labour law

The *Agreement for Employment in Milan* must be considered in the framework of the normative standards laid down at a national level in the limits allowed by law and by collective agreement. In any event, derogations do not concern the wage levels established by national collective bargaining.

3.1. Employment Contracts

Fixed-term work. Using a power of derogation provided by statutory law (Art. 23, Law n. 56/1987) in favour collective employment contracts stipulated with the most representative national or local unions at the national level, the signatories of the agreement have identified a number of cases of legitimate recourse to fixed-term contracts which

are additional to and diverse from those indicated by the national legislation (Law No. 230/1962).

Quasi-subordinate relationships (continuous and coordinated collaboration). Such a contractual arrangement is not disciplined by the law. It is a kind of grey area between self-employment and dependent work. In order to avoid such an area becoming an outlet to bypass the rules of labour law, the agreement intervenes providing a minimum of rights for quasi-subordinate workers.

Work/training contracts and 'grants'. The agreement refers to some tools disciplined by Law No. 196/1997 aimed at favouring alternation between training and work, such as traineeships, guidance and 'grants'. Such tools are used to advantage by means of the identification of adequate financing from Municipal, Provincial, Regional and EU sources.

3.2. Employment Services and Professional Training

Recently enacted regulations have introduced a profound change in the area of employment services. Traditionally aimed at optimising the match between supply and demand of labour, the public monopoly of placement has been abolished. In the same way a devolution process has been started shifting competence from Government to regional and local actors (Legislative Decree No. 469/1997). The Agreement stems from this reform and, anticipating what will auspiciously be undertaken by other Italian regions, has given rise to a mechanism directed at encouraging the match between supply and demand of labour. An efficient mechanism of free employment services is integrated with training courses finalised to optimise the quality of the offer of employment and guarantee, in the long term, opportunities to the weaker groups of the labour market for a stable professional integration.

3.3. Public Contracts (Tenders)

In order to maximise the occupational impact, the MILANO LAVORO agreement provides the Municipal administration of Milan with the possibility of inserting a clause in its own contractual arrangements relative to the projects approved by the Concertation Commission and binding tender companies, in the event of recourse to additional human resources, to use the contractual tools provided for in the agreement.

MILANO LAVORO: AN AGREEMENT FOR EMPLOYMENT IN MILAN

Stated that:

1. in February 1998 the Milan municipal administration and the Trade Union Confederations CGIL-CISL-UIL signed a Protocol of intent aimed at providing, on the local basis, the re-launching of the city of Milan both under the economic and social profile with the desire to pursue, among other things, the objective of optimising the match between supply and demand of labour;
-

2. all signatories of the present agreement share and confirm the pledges undertaken in the pre-agreement of 28 July 1999 ('An agreement for Employment in Milan'), which is herein attached as an integral part of this agreement (Annex I).

Considered that:

1. the Italian legislation contains relevant reference to the concertation with the social parties capable of contributing, if adequately used to advantage, to the modernisation of employment relationships, even with respect to the provisions of law and collective bargaining;
2. the implementation of the spaces of flexibility by means of reference to the contractual autonomy of the social parties cannot bring about violations of the mandatory provisions of law and collective bargaining, establishing instead full utilisation of the concertative method;
3. the adaptability of the labour market requires not only an increase in flexibilisation of employment relationships, but also:
 - a modern and efficient system of services for the employment, capable of spreading information about the labour market and matching the needs of companies with the competence and educational and professional training of workers;
 - a support for the training processes, re-qualification and professional insertion and a greater finalisation of the training offer already existing, in such a way as to compete for the maximisation of the quality of the offer of work;
4. the national and regional legislation has provided for specific norms for the inclusion into the labour market of people in difficulty (L.381/ 91, LR 16/93), norms which are finalised to favour the development of projects of insertion into the labour market.
5. the employment policies can avail themselves of financial incentives of regional, national and European Union origin which favours the insertion into the labour market.

Pointed Out Likewise That:

1. the intervention on the labour market of the city of Milan agreed upon in the Pre-agreement of 28 July 1999 is necessarily linked to the individualisation of innovative projects capable of developing additional employment;
2. the identification of projects referred to above imposes the constitution of Concertation Committee to validate, verify and monitor the planned initiatives, as well as to ascertain their correspondence to the requisites and conditions indicated in the present agreement

The Present Agreement Has Been Drawn up

Title I
SCOPE OF APPLICATION

Article 1
Objective Scope of Application

1. With a view to favouring additional employment with the priority for subjects referred to in article 2, the discipline contained in the present agreement is applicable with exclusive reference to the implementation of innovative projects approved by the Concertation Commission according to article 3.

Article 2
Subjective Scope of Application

1. Included in the subjective scope of application of the present agreement are:
-

- unemployed non-EU citizens as defined by article 1 of the discipline of immigration and norms on the conditions of foreigners (Legislative Decree 25 July 1998, 286);
- subjects in situations of psycho-physical or social disadvantage as laid down by Law 381/91 and Regional Law 16/93;
- workers over 40 who have been excluded from the labour market through reduction or transformation of activity and enrolled on the list of mobility and placement.

Title II

APPROVAL AND MONITORING OF PROJECTS

Article 3

Concertation Commission

1. Within a month of the signing of the present agreement, a 'Concertation Commission' shall be set up as a permanent tripartite body to validate, verify and monitor the projects which have been put forward and approved in the context and for the purpose of the present agreement.
2. The Commission is made up of representatives designated by the Milan Municipality, by the Province and by the signatory parties of the present agreement.
The composition of the Commission must be such as to permit the parity and bilateral status of the social parties' positions.
The member designated by the Milan Municipality takes the presidency of the Commission and, on the indication of the signatories, appoints two vice-presidents, one from the employers side and the other from the trade union side. In designating the members, the Municipality and the signatories designate simultaneously the alternate members, whose participation is disciplined according to the following paragraph.
3. The Commission meets, as a rule, at least six times a year. The functioning of the Commission is disciplined by a regulation to be approved unanimously within 30 days. The regulation provides for, likewise, the criteria for the drawing up of projects according to article 1, including the possibility to integrate single projects already in course.
4. For the fulfilment of its proper tasks and functions the Commission can establish, on the basis of the regulation referred to in the preceding paragraph, special subcommittees guaranteeing, in any event, the parity and bilateral status of the social parties positions.
5. The Commission shall be able to arrange hearings or meetings with representatives of associations who operate in the areas of social economy, physical-mental handicap and immigration.

Article 4

Tasks of the Commission

1. It is the task of the Commission to verify the correspondence of the projects which are presented according to the following paragraph in view of the aim stated in the premise of the present agreement and in the pre-agreement of 28 July 1999 herein attached. It is likewise the task of the Commission to monitor the loyal application of the present agreement.
 2. The enterprises, associations, foundations, public administrations and, in general, all economic subjects in the Milan area which intend to adhere to the initiative called *Milano Lavoro* must present a project drafted in conformity with the regulation approved by the Concertation Commission according to article 3, paragraph 3, of the present agreement. The approval of the project by the Commission shall constitute the necessary and sufficient condition for the access to the tools and facilitation referred to in Titles III and IV of the present agreement.
-

3. The Commission, within two months from the beginning of the presentation of the project, shall verify its correspondence regarding the objectives and in light of the present agreement, also in relation to the approved regulation according to article 3, 3rd paragraph. Once such a term has lapsed, the project is deemed not approved. In the event in which the complexity of the project requires special assessment, the Commission can extend the above mentioned term by up to two months.
4. Every six months the Commission verifies the state of the application of the present agreement and supplies a report to the signatory parties with special reference to the number of approved projects, the types of workers involved, the number of workers hired and assured the stability of an employment relationship.

Title III

WAYS TO FAVOUR THE MATCH BETWEEN SUPPLY AND DEMAND OF LABOUR

Article 5

The *Milano lavoro* One-stop shop

1. Aimed at favouring the match between supply and demand of labour in relation to articles 1 and 2 of the present agreement, the *Milano lavoro* One-stop shop shall be set up on the basis of a convention between the Municipality and the Province of Milan according to Legislative Decree of 23 December 1997, n. 469 and Regional Law 15 January 1999, n. 1 in agreement with the local Immigration Office and the Inspection Services of the Provincial Labour Administration.
2. The convention shall in advance be put to the opinion of the signatories of the present agreement. The One-stop shop *Milano lavoro* informs periodically the Concertation Commission through report on its own activities.
3. The services provided by the *Milano lavoro* One stop shop in favour of workers and enterprises adhering to the agreement of *Milano lavoro* are free. The One-stop shop shall be able to facilitate the access to all existing channels of financing to make easier the implementation of projects according to article 1.
4. Object of the convention between the Province and the Municipality referred to in paragraph 1 shall be the constitution of the One-stop shop aimed at facilitating the match between supply and demand of labour relative to projects approved by the Concertation Commission, also with the view to assist enterprises in the procedure of hiring workers involved in the projects themselves, including the assessment of regularising non-EU citizens, still respecting though the obligations of law on the activation of employment relationships and the release of the authorisation of dependent work and self-employment according to the discipline of immigration and norms on the condition of foreigners (D.P.R. 31 August 1999, n. 394).
5. The Convention referred to in the preceding paragraph shall regulate, in particular:
 - the monitoring of supply and demand of labour related to the projects referred to in Title II of the present agreement;
 - the management of computerised archives, in accordance with public and private data banks already present in the territory, also in connection with the National Employment Information System (to be set up);
 - the way of functioning of the service for the training and integration referred to in article 6;

Note: with reference to the regularising of non-EU citizens referred to in the present agreement the Municipality commits itself to sign a protocol with the local Immigration Office to accelerate the regularising process.

Article 6 Vocational Training

1. Aimed at favouring the increase in the quality of work offered and to improve the possibilities of a stable insertion into the labour market of subjects as in article 2 of the present agreement, also in the event of recourse to the contractual arrangements as in Title IV, a service is to be established for the training, guidance and integration in the context of the One-stop shop *Milano lavoro*.
 2. The service for the training and integration which is stated in the preceding paragraph shall have place at the One-stop shop *Milano lavoro* and will operate in collaboration with the public and private institutional subjects, training suppliers, signalling, in relation to the single projects, the suitable training offer. The activity of the aforesaid service shall occur on the basis of guidance defined by the Concertation Commission as in article 3.
 3. The model of functioning and the task of the service for the training and integration mentioned in the first paragraph shall be identified in the context of the convention between the Municipality and the Province of Milan referred to in the article that precedes regarding the following guidelines:
 - a. the service for the training and integration of *Milano lavoro* shall be constituted by staff capable of carrying out the following activities with special reference to the projects mentioned in article 4:
 - to accomplish the functional and operative insertion in the context of the *Milano lavoro* desk;
 - to collaborate to single out and channel the possible subjects to be inserted in the training courses, identifying and carrying out diversified courses of access in function of the types of use (reception, guidance);
 - to contribute to identifying and decoding the training needs expressed by the demand in relation to the projects presented;
 - to cooperate with the network of training, projectual resources existing for the organisation of training courses responding to the needs of those above;
 - to contribute to identifying the most suitable subjects to be inserted into training and work courses (pre-selection);
 - to cooperate in the promotion of employment insertion methods of subjects mentioned in article 2 of the present agreement also through the use of training and guidance courses, work programmes and other training measures;
 - to favour the correct use of different sources of financing;
 - to monitor the impact of training courses implemented in terms of insertion into the labour market and stabilisation of employment relationships.
 - b. in the event of presentation of projects as in article 4 of the present agreement to national or Community organisations for their funding, the Municipality and Province of Milan will perform the role of promoter and/or presenter of the projects themselves; the organisations carrying out the training activity will be those identified by the subjects as mentioned in article 4, paragraph 2.
 - c. training activity shall be performed only by accredited public or private subjects, according to the procedures and guidance provided in the convention between the Municipality and Province of Milan in reference to the criteria established by the Regione Lombardia. Such subjects shall be eligible for forms of self-financing, co-financing or financing on behalf of a third party according to the procedures established by the Concertation Commission as in article 3 in a way to:
 - respect the constraints and take full advantage of the specific opportunities of each type of financing, in order to identify the most suitable form of financing the diverse courses for the work insertion in connection with the approved projects;
-

- coordinate the training courses with the needs expressed by the demand of labour.

Title IV **CONTRACTUAL ARRANGEMENTS**

Article 7 **Regulation and Stabilisation of Employment Relationships**

1. The signatory parties of the present deal agree that the contractual arrangements disciplined in Title IV shall be experimented in the logic of promoting processes of insertion into work of subjects referred to in article 2, in the context of projects approved by the Concertation Commission, fighting precarious conditions and operating in the perspective of contributing to a stabilisation of employment relationships.
2. In case of reiteration of projects on the part of the above mentioned proponent subject, the Concertation Commission, with a view to approval, shall take into consideration, among the different elements, the of the training and the quota of term contracts transformed an employment relationship of indefinite duration.
3. As concerns new projects, criteria shall be identified in order to define a training and professional credit for workers who have concluded single projects. The purpose of which is to not dissipate the skills acquired.

Article 8 **Fixed-term Employment Contract**

1. In accomplishing the provision referred to in article 23, Law 28 February 1987, n. 56, the hiring under a fixed-term contract is allowed, in addition to that provided for by Law 18 April 1962, n. 230 and subsequent amendments, of workers belonging to the categories indicated in article 2.
2. In addition to the subjective cases for fixed-term work as identified in the above paragraph, the hiring is likewise allowed under contracts of a definite duration in the following cases:
 - hiring of the first employee;
 - hiring by employers who employ up to 5 employees;
 - hiring as employees of subjects with whom a contract of quasi-subordinated work had been stipulated.

Article 9 **Work/Training Contract, Guidance**

1. In cases of hiring under criteria work/training contracts of investment employees who come under the fixed- projects approved by the Com- into mission, the duration of the contract shall be always authorised in the maximum measure of the law.
 2. Companies which present projects in the context of the agreement Milano lavoro and the subjects able to promote conventions for the use of traineeships and guidance, referred to by article 18, Law 24 June 1997, n. 196, shall identify training projects for the insertion into the labour market of the weak subjects referred to in article 2 of the present agreement.
 3. To support the insertion of individuals referred to in article 2 of the present agreement, recourse to grants is possible. For such a purpose, in the context of the functioning of the One-stop shop, available funds originating from Municipal, Provincial, Regional and EU sources shall be identified.
-

Article 10

Contracts of Quasi-Subordinated Work (Continuous and Coordinated Collaboration)

1. Contracts of quasi-subordinated work stipulated in the context of the projects presented according to the present agreement, shall provide that the work concluded has to be performed in times, ways and with the means established jointly by the consignor and the collaborator, necessary to accomplish the objectives and indicated in the contract itself on the basis of organisational restrictions, defined by the consignor. It shall likewise be expected, with the forewarning of 15 working days and written acceptance of the collaborator, the change of aforesaid times requested by the consignor company.
2. As concerns health and safety the regulations in force shall apply.
3. Contracts of continuous and coordinated collaboration shall likewise have to provide for the object of performance, the entity and the times of payment, as well as the cases of possible early termination of the relationship.
4. The parties agree on the importance of paying special attention to the use of contracts of quasi-subordinated work for subjects over 40 who have been excluded from the labour market.

Article 11

Public Contracts (Tenders)

1. To maximise the occupational impact of the *Milano lavoro* agreement, the Milan City Municipality shall insert in its own public contract relative to the projects approved by the Concertation Commission a clause with which contractor companies, in case of recourse to additional labour, to utilise the contractual arrangements provided for in the present agreement according to the terms provided.
2. The Municipality, where possible, shall activate forms of convention directed at article 5 of Law 381 to favour the integration of disadvantaged subjects as provided for by article 2 of the present agreement. To such an end the Municipality shall prearrange a convention type.

Title V

FINAL PROVISION

Article 12

Validity and Duration

1. The present agreement has an experimental nature and shall be valid for 4 years, except for different agreements reached by the parties underwritten during its application.
 2. Six months before the expiry the parties shall commit themselves to opening a negotiating table aimed at verifying the objectives contained in it, in view of its extension and/or adaptation in relation to the conditions of the Milan labour market and possible changes in the legal framework of reference.
 3. The Concertation Commission shall examine within the month March of this year the projects presented by the parties in the course of technical work, of which in Annex II which is herein attached as an integral part of this agreement.
-

4. The signatory parties of the present agreement, in case of new legislative provisions and any time they consider it advisable, shall analyse the introduction of possible new arrangements.

Signatories

Comune di Milano, Provincia di Milano, Regione Lombardia, CISL, UIL, CISAL, UGL, Assolombarda, Unione del Commercio, Confcommercio, Api Milano, APA of Confartigianato, CLAAI Unione Provinciale Milano, CNA, CISPEL, AGCI, Confcooperative, Lega Cooperative

Annexes:

I – Pre-agreement of 28 July 1999:

‘An agreement for Employment in Milan’
omitted

II – PROJECTS PRESENTED BY THE PARTIES DURING NEGOTIATION

omitted

Milan, 2 February 2000
